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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 6844

DATE COMPLAINT FILED: June 20, 2014

DATE OF NOTIFICATION: June 25, 2014

LAST RESPONSE RECEIVED: August 21, 2014

DATE ACTIVATED: October 9, 2014

EXPIRATION OF SOL:

April 15, 2019 (earliest)

May 9, 2019 (latest)

ELECTION CYCLE: 2014

COMPLAINANT:

Tamara R. Rubyn, President/Business Manager for the
Office and Professional Employees International Union,
Local 29, AFL-CIO, CLC

RESPONDENTS:

Kaiser Foundation Hospitals, Kaiser Foundation
Health Plan, Inc. and The Permanente Medical
Group, Inc.

**RELEVANT STATUTE
AND REGULATION:**

52 U.S.C. § 30118(b)(6)¹

11 C.F.R. § 114.5(k)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

Complainant Tamara R. Rubyn, President/Business Manager for the Office and
Professional Employees International Union, Local 29, AFL-CIO, CLC ("OPEIU"), alleges that
Kaiser Foundation Hospitals, Kaiser Foundation Health Plan, Inc. and The Permanente Medical
Group, Inc. (collectively "Kaiser") failed to honor employee requests for voluntary payroll
deductions in violation of the Commission's regulations. The Complaint notes that OPEIU has

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to new Title 52 of the United States Code.

1 an agreement with Kaiser under which Kaiser agreed to administer a voluntary check-off system
2 for employee contributions to union political action funds. Compl. at 1, Attach. at 1 (June 20,
3 2014). OPEIU attaches authorization request forms for payroll deductions submitted by six
4 employees over a six-month period that Kaiser allegedly did not honor. *Id.*, Attach. at 3-9. It
5 appears, however, that Kaiser did not have a voluntary payroll deduction system in place for any
6 of its salaried supervisory or management personnel. Thus, neither the Act nor the
7 Commission's regulations require Kaiser to implement such a system for OPEIU's employees.

8 II. ANALYSIS

9 Under the Act and Commission regulations, a corporation may use a payroll deduction
10 program to facilitate the making of voluntary contributions from the corporation's executive and
11 administrative personnel to its separate segregated fund. 52 U.S.C. § 30118(b)(2), (5) (formerly
12 2 U.S.C. § 441b(b)(2), (5)); 11 C.F.R. §§ 114.1(f), 114.2(f)(4)(i), 114.5(k)(1). Any corporation,
13 including its subsidiaries, branches, divisions, and affiliates that uses such a method, must, upon
14 request, make that method available to a labor organization representing the company's
15 employees. 52 U.S.C. § 30118(b)(6) (formerly 2 U.S.C. § 441b(b)(6)); 11 C.F.R. § 114.5(k).
16 Conversely, if a corporation uses no method to solicit voluntary contributions or to facilitate the
17 making of voluntary contributions from stockholders or executive or administrative personnel, it
18 is not required by law to make any method available to the labor organization for its members.
19 11 C.F.R. § 114.5(k)(4). The corporation and the labor organization may agree upon making any
20 lawful method available even though such agreement is not required by the Act. *Id.*

21 Based on the available information, Kaiser does not appear to have violated the Act or
22 Commission regulations. Kaiser maintains in its Response that it has no obligation under the Act
23 to provide OPEIU with a system for voluntary payroll deductions, as it does not use a method of

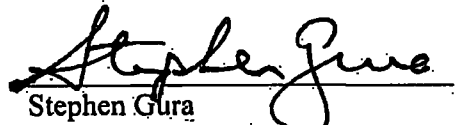
soliciting voluntary contributions from any of its salaried supervisory or management personnel.
Resp. at 2 (Aug. 21, 2014). There is no available information to the contrary. Therefore, Kaiser
was not required under the Act or Commission regulations to make a payroll method available to
OPEIU. *See* 11 C.F.R. § 114.5(k)(4).

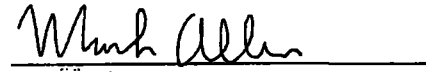
Accordingly, we recommend that the Commission find no reason to believe that Kaiser
Foundation Hospitals, Kaiser Foundation Health Plan, Inc. or The Permanente Medical Group,
Inc. violated 52 U.S.C. § 30118(b)(6) (formerly 2 U.S.C. § 441b(b)(6)) or 11 C.F.R. § 114.5(k).
We also recommend that the Commission close the file.

III. RECOMMENDATIONS

1. Find no reason to believe that Kaiser Foundation Hospitals, Kaiser Foundation Health Plan, Inc. or The Permanente Medical Group, Inc. violated 52 U.S.C. § 30118(b)(6) (formerly 2 U.S.C. § 441b(b)(6)) or 11 C.F.R. § 114.5(k).
2. Approve the attached Factual and Legal Analysis.
3. Approve the appropriate letters.
4. Close the file.

11/24/14
Date


Stephen Gura
Deputy Associate General Counsel
for Enforcement


Mark Allen
Acting Assistant General Counsel


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